

STATE OF CALIFORNIA  
**ELECTRICITY OVERSIGHT BOARD**



Gray Davis, Governor

May 29, 2001

Mr. David P. Boergers, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

**Re: AES Huntington Beach, L.L.C. Docket No. ER98-2184-006**  
**AES Alamitos, L.L.C., Docket No. ER98-2185-006**  
**AES Redondo Beach, L.L.C., ER98-2186-006**  
**(Not consolidated)**

Dear Mr. Boergers:

The California Electricity Oversight Board hereby submits an original electronic filing of its Motion to Intervene and Protest in the above-referenced proceedings.

Thank you for your assistance.

Sincerely,

/s/ Lisa V. Wolfe

Lisa V. Wolfe  
Staff Counsel  
Electricity Oversight Board

Enclosures

cc: Official Service Lists of ER98-2184-006, ER98-2185-006 and ER98-2186-006

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

AES Huntington Beach, L.L.C.  
AES Alamitos, L.L.C.  
AES Redondo Beach, L.L.C.

Docket No. ER98-2184-006  
Docket No. ER98-2185-006  
Docket No. ER98-2186-006

(Not consolidated)

**MOTION TO INTERVENE AND PROTEST OF THE CALIFORNIA  
ELECTRICITY OVERSIGHT BOARD**

Pursuant to the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214(a)(3) and (b), the California Electricity Oversight Board ("Board") hereby moves to intervene and protests in the above-captioned dockets.

**I. CORRESPONDENCE AND COMMUNICATIONS**

The principal office of the Board is located at 770 L Street, Suite 1250, Sacramento, California, 95814. All pleadings, orders, correspondence and communications regarding this motion should be directed to the following persons:

Erik Saltmarsh, Chief Counsel  
California Electricity Oversight Board  
770 L Street, Suite 1250  
Sacramento, CA 95814  
Tel: (916) 322-8601  
Fax: (916) 322-8591  
[ens@eob.ca.gov](mailto:ens@eob.ca.gov)

Lisa V. Wolfe, Staff Counsel  
California Electricity Oversight Board  
770 L Street, Suite 1250  
Sacramento, CA 95814  
Tel: (916) 322-8601  
Fax: (916) 322-8591  
[lwolfe@eob.ca.gov](mailto:lwolfe@eob.ca.gov)

**II. MOTION TO INTERVENE**

Pursuant to the Commission's Notices of Filing dated May 11, 2001, the Board moves to intervene to obtain party status to represent itself, and the responsibilities the State of California has assigned to it, in this proceeding. The Board was created as a component of California's comprehensive restructuring legislation. The Board's

statutory responsibilities include oversight of the California Independent System Operator (CAISO) including the energy and ancillary services markets administered by the CAISO, and oversight of the California Power Exchange Corporation (CalPX).

On May 7, 2001, in the above-captioned dockets, AES Huntington Beach, L.L.C., AES Alamitos, L.L.C., and AES Redondo Beach, L.L.C (collectively, the “AES Facilities”) each filed with the Commission an updated market power analysis as required by the Commission’s April 30, 1998 Order in Docket No. ER98-2184-000 granting the AES Facilities market-based rate authority. These filings are the triennial updates of the 1998 analyses submitted to the Commission in connection with the initial requests of the AES Facilities for market-based rate authority.

As a result of the Board’s statutory responsibilities described above, the Board has an interest that may be directly affected by the outcome of the above-captioned proceeding and the Board’s participation is in the public interest of the citizens of the State of California. 18 C.F.R. §§ 385.214(b)(2)(ii) and 385.214(b)(2)(iii).

### **III. PROTEST**

The Board hereby protests the triennial market power updates filed by the AES Facilities in the above-captioned dockets. These filings do not and cannot adequately address the issue of market power associated with the generation output of these facilities. Pursuant to a contract between the AES Corporation (“AES”) and Williams Energy Marketing & Trading Company (Williams), Williams is entitled to market and dispatch all of the output from the AES Facilities. The AES Facilities’ triennial filings must be considered in conjunction with Williams’ triennial update for the AES Facilities

filed with the Commission in Docket No. ER99-1722-004<sup>1</sup> and with the associated issue of Williams' exercise of market power in California's wholesale energy markets.

In response to Williams' entirely inadequate triennial update, various parties including the Board have filed protests with the Commission and motions to suspend or terminate Williams' market-based rate authority for the AES Facilities. Most recently, on May 29, 2001, the Board and the California Public Utilities Commission (CPUC) filed a "Joint Emergency Motion of the California Electricity Oversight Board and California Public Utilities Commission for Immediate Suspension of Market-Based Rate Authority and for the Institution of Refund Proceedings" ("Joint Emergency Motion") in Docket No. ER99-1722-004.<sup>2</sup>

As set forth in detail in the "Joint Emergency Motion," Williams is guilty of exercising market power in California's wholesale energy markets, Williams has utterly failed to meet its burden to demonstrate that it lacks or has adequately mitigated market power for the AES Facilities, and the Commission should order Williams to disgorge monopoly rents. Also, as explained in the "Joint Emergency Motion," the Commission's April 26, 2001 Order<sup>3</sup> fails to adequately mitigate market power so as to permit continuance of market-based rate authority.

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<sup>1</sup> "Compliance Filing of Williams Energy Marketing & Trading Company Submitting Updated Market Power Analysis" filed with the Commission on March 12, 2001 in *Williams Energy Marketing & Trading Company*, Docket No. ER99-1722-004.

<sup>2</sup> See also "Emergency Motion of the California Independent System Operator Corporation for Immediate Suspension of Market-Based Rate Authority, for the Institution of Refund Proceedings, and Request for Shortening of Time to Answer" filed with the Commission on May 25, 2001 in *Williams Energy Marketing & Trading Company*, Docket No. ER99-1722-004.

<sup>3</sup> "Order Establishing Prospective Mitigation and Monitoring Plan for the California Wholesale Electric Markets and Establishing an Investigation of Public Utility Rates in Wholesale Western Energy Markets" issued on April 26, 2001 in *San Diego Gas & Electric Company et al*, Docket Nos. EL00-95-012 et al. 95 FERC ¶ 61,115 (2001)

For the above-mentioned reasons, the Board respectfully requests that the Commission grant this motion to intervene and the Board protests the AES Facilities' triennial filings in the above-captioned dockets.

Dated: May 29, 2001

Respectfully submitted,

/s/ Lisa V. Wolfe

Lisa V. Wolfe  
Staff Counsel  
Electricity Oversight Board  
770 L Street, Suite 1250  
Sacramento, CA 95814  
(916) 322-8601

### **CERTIFICATE OF SERVICE**

I hereby certify that, on May 29, 2001, I served the foregoing document upon each person designated on the official service list for these proceedings compiled by the Secretary.

Dated at Sacramento, California, this 29<sup>th</sup> day of May 2001.

/s/ Lawrence Cook

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Lawrence Cook  
California Electricity Oversight Board  
770 L Street, Suite 1250  
Sacramento, CA 95814  
(916) 322-8601